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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,746	02/14/2002	William A. Reed	920002.90248	1829

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,746

Applicant(s)

REED ET AL.

5/1

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 10-16, 22-25, 27, 32 and 34 is/are allowed.
- 6) ☒ Claim(s) 17-21, 28-31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 2, the phrase "the concave recess" does not have a proper antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. Claims 17 & 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nave [U.S. Patent No. 2,251,799]. Nave (figures 1-8) teaches of a refrigeration unit (fig. 1) comprising: a cabinet (C) defining a storage cavity open at a front side and covered by a door (not shown but mentioned in the spec. – page 1, lines 21-22) mounted to the cabinet. The cabinet having a back wall and opposite first and second side walls (all defined by 5) defining a pair of vertically aligned rests (11 e.g.) for a planar shelf (describes as adjustable shelves in spec.,) having opposite edges and sized to be supported via the rests, the first side wall defining a recess (12) which opens facing the second side wall adjacent an upper side of the rest, whereby the shelf can be removed from the rests by pivoting the shelf edge adjacent the recess upward (fig. 1) toward the

Art Unit: 3637

second side wall about an axis extending in a direction between the back wall and the face of the cabinet. The unit having a plurality of shelves and vertically aligned rests (note fig. 1). The recess extending from the access opening a distance less than the length of an edge of the shelf (viewed as either a lengthwise or widthwise edge) as best understood by the examiner.

5. Claims 28-31 & 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al., [U.S. Patent No. 5,496,104]. Arnold (figures 1-10) teaches of a "refrigeration unit" (fig. 6 – in as much as no refrigeration components are positively being claimed. Viewed as being a generic cabinet having a cavity, an access opening and a door) comprising: a cabinet (2) defining a storage cavity with an access opening at a face of the cabinet; and a door (6) hinged to the cabinet face to cover the access opening. The door having a top member (20), framing (22, 24, 26 and may include 20), a floating face panel (14) and an overlay panel (16) mounted to the face panel via the framing for concealing the cabinet (fig. 7). The framing defining a retaining lip (viewed as 28 – 28A in fig. 6) extending around at least a portion of the perimeter of the face panel disposed within a gap between the overlay panel and the face panel so as to retain the face panel in the door. The unit further comprising spacers (viewed as the foam 19 – the foam could constitute foam pieces depending upon personal preferences) disposed between the face panel and the overlay panel. The top member is removable and retains the face panel in the framing from above. The unit further including upper and lower door hinges (8A & 8b) mounted to the cabinet and the overlay panel via the door assembly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17-19 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squire [U.S. Patent No. 3,690,744]. Squire (figures 1-3) teaches of a refrigeration unit (see claims) comprising: a cabinet defining a storage cavity open at a front side and covered by a door (see spec.) mounted to the cabinet. The cabinet having a back wall (23) and a front wall (22), and opposite first and second side walls, with the front and rear walls defining a pair of vertically aligned rests (25, 25a e.g.) for a planar shelf (10) having opposite edges and sized to be supported via the rests, both the front and rear wall define a recess (24, 25, 26 for example) which opens facing the other opposite wall adjacent an upper side of the rest, whereby the shelf can be removed from the rests by pivoting the shelf edge adjacent the recess upward (fig. 2) toward the opposite side about an axis extending in a direction between the side walls. The wall of the unit being defined by an insert liner [described as a *molded refrigerator liner*] of an inherently plastic material that is conventional in the art. The recess extending from the access opening a distance less than the length of an edge of the shelf (viewed as either a lengthwise or widthwise edge) as best understood by the examiner. Squire teaches applicant's inventive claimed structure as disclosed above, but shows the rests being on the front and rear walls as opposed to the side walls of the instant invention. As such, the examiner has taken the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to reposition the rests from the front and back walls to the side walls, since it has been

held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. A modification of this scope would involve a mere change in the location of the rests within the compartment without affecting the purpose or function of the affected components.

Allowable Subject Matter

8. Claims 1-8, 10-16, 22-25, 27, 32 & 34 are allowed.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. As to the Arnold reference, it is viewed that the prior art adequately teaches the limitations as presently claimed. Concerning the "*floating* face panel" limitation, it is noted that the structure of the Arnold's door is believed to meet the limitation as presently set forth since the panels may "float" [viewed as lateral sliding movement] within the frame as depicted in figure 6. Additionally, the position may be taken that the term "floating" [viewed as an adjective] is merely a descriptor for the claimed structure of a "face panel" i.e., the phrase "floating face panel" can denote a different meaning than the phrase "a face panel that floats...".

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3637

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

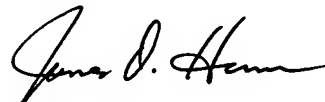
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
November 18, 2004